imposed by statute. *Board of Park Commissioners* v. *Prinz,* 127 Ky. 460; *Harper* v. *City of Topeka,* 92 Kan. 11, 51 L. R. A. N. S. 1032; *Mayor &c* v. *Burns,* 131 Tenn. 281; *Blair* v. *Granger,* 24 R. I. 17; *Russell* v. *Tacoma,* 8 Wash. 156; *Brisbing* v. *Asbury Park,* 80 N. J. L. 416, 33 L. R. A. N. S. 523; *Steele* v. *City of Boston,* 128 Mass. 583; *Clark* v. *Waltham,* 128 Mass. 567. See also *Higginson* v. *Treas. etc. of Boston,* 212 Mass. 583, 24 Cent. L. J. 463. It has been held in some cases, however, that the maintenance of parks is not necessarily a governmental function, and that the city is liable for negligence in their management. *Jones* v. *City of New Haven,* 34 Conn. 1; *City of Denver* v. *Spencer,* 34 Colo. 270, 82 Pac. 590, 2 L. R. A. N. S. 147. And see *Board of Park Commissioners* v. *Detroit,* 28 Mich. 228; *Gartland* v. *New York Zoological Society,* 135 App. Div. (N. Y.) 163; and *State* v. *Schweickardt,* 109 Mo. 496, 512, in support of this doctrine. There is some tendency to apply a rule of natural justice rather than strict logic to cases of injuries caused by the negligence of municipal officers and servants, and many courts have held the city liable in cases of this kind, either by putting the case within some exception to the rule of exemption from liability (*Ackeret* v. *City of Minneapolis,* 129 Minn. 190, 151 N. W. 976; *Capp* v. *St. Louis,* 251 Mo. 345, 158 S. W. 616) or by applying rules applicable to private individuals, without regard to whether the maintenance of parks is governmental or not (*Glase* v. *City of Philadelphia,* 169 Pa. 488, 32 Atl. 600; *Carey* v. *Kansas City,* 187 Mo. 715; *Weber* v. *Harrisburg,* 216 Pa. 117, 64 Atl. 905; *Silverman* v. *City of New York,* 114 N. Y. Supp. 59; *Canon City* v. *Cox,* 55 Colo. 264, 133 Pac. 1040; *Barthold* v. *Philadelphia,* 154 Pa. 109, 26 Atl. 304). The principal case is in line with the strict rule, and probably with the weight of authority. WEST, J., dissented, basing his opinion particularly on two prior Kansas decisions (*Murphy* v. *Fairmont Township,* 89 Kans. 760; *Kansas City* v. *Siese,* 71 Kans. 283). These cases, however, seem readily distinguishable from the principal case. The former was an action against a township to abate a nuisance and to recover damages for injuries sustained thereby, in which the court held that the plaintiff could not "under the settled rules of law" recover damages for the injuries already sustained, though he could enjoin the continuance of such nuisance; and the latter was a suit for damages caused by injuries resulting from a nuisance maintained by the city, not in the performance of any governmental function, and the question presented in the principal case was not touched upon in that decision at all. On the other hand, the case of *Fisher* v. *Township,* 87 Kans. 674, is strong authority in support of the decision in the principal case; and it can hardly be said that "the dissenting opinion is in greater consonance with the Kansas authorities"—though see XXVI Yale L. J., 77, to the contrary.

NEGLIGENCE—DUTY OF MANUFACTURER TO INSPECT GOODS.—Defendants, who were manufacturers, sold step-ladders to a retailer and one of them was purchased by plaintiff. In using the ladder it broke, and plaintiff received a fall. It did not appear whether the defendant had tested the step ladders before putting them on the market. *Held,* (though deciding for defendant on other grounds) that the manufacturer was bound to test the step ladders

before putting them on the market, and where he failed to do so he would be liable to an ultimate purchaser who was injured because of defects in the ladder. *Miller* v. *Steinfeld* (1916), 160 N. Y. Supp. 800.

In this case the charge was not one of fraud, but of negligence. The question to be determined was the degree of care and vigilance incumbent upon a manufacturer. The decision is in line with the recent case of *MacPherson* v. *Buick Motor Company,* 217 N. Y. 382, 111 N. E. 1050, Ann. Cas. 1916C 440. holding that the manufacturer of an automobile was responsible for the finished product, and was not at liberty to put that product upon the market without subjecting the component parts to ordinary and simple tests. The question of the liability of a manufacturer, packer or vendor to the ultimate purchaser, as well as to persons not in privity of contract, for injuries from defects in the article sold, has always been a vexing one. For a full discussion of this question see the note to *Tomlinson* v. *Armour & Company,* 19 L. R. A. N. S. 923, and the long list of cases there cited and reviewed, also the note to *Mazetti* v. *Armour & Company,* 48 L. R. A. (N. S.) 213. All the earlier cases on this question are considered in these notes. In the later cases, and especially in *MacPherson* v. *Buick Motor Company,* supra, and the principal case, we see an extension of the liability of a manufacturer or vendor, both as to the duty required and as to the manufactured articles to which it applies. Earlier cases limited the principle to poisons, explosives and things of like nature which in their normal operation are implements of destruction. See *McCaffrey* v. *Mossberg & G. Mfg. Co.,* 23 R. I. 381, 50 Atl. 651, 55 L. R. A. 822, 91 Am. St. Rep. 637; *Thomas* v. *Winchester,* 6 N. Y. 397, 57 Am. Dec. 455; *Davidson* v. *Nichols,* 11 Allen 514. For one early case in accord with principal case see *Schubert* v. *Clark Co.,* 49 Minn. 331. The duty to inspect is independent of contract, and the obligation arises at law. *MacPherson* v. *Buick Motor Co.,* supra. Opposed to the doctrine of the principal case is *Cadillac Motor Co.* v. *Johnson,* 221 Fed. 801, 137 C. C. A. 279, L. R. A. 1915E 287. For a summary of the earlier cases see *Huset* v. *J. I. Case Threshing Machine Co.,* 120 Fed. 865, 57 C. C. A. 237, 61 L. R. A. 303. The manufacturer will not be excused from the duty of inspection because he has bought the defective part of the finished product from a reputable manufacturer. However, the duty to inspect will vary with the nature of the thing to be inspected. *Richmond & Danville R. R. Co.* v. *Elliott,* 149 U. S. 266, 272, 13 Sup. Ct. 837, 37 L. Ed. 728; *MacPherson* v. *Buick Motor Co.* supra.

SPECIFIC PERFORMANCE—DAMAGES IN PLACE OF SPECIFIC PERFORMANCE.—The plaintiff brought an action for specific performance of a contract for the sale of land. At the time of the commencement of his action, he knew that specific performance was impossible because the defendant did not have title to the land, but his action was started in good faith and not for the purpose of evading a jury trial. *Held,* that damages should be awarded to the plaintiff in lieu of the relief sought. *McLennan* v. *Church* (Wis. 1916), 158 N. W. 73.